REMARKS

After the Office Action mailed October 2, 2008 (hereinafter: "the Office Action"), claims 21-38 are pending in the above reference application and stand rejected. Claims 25 and 28-31 have been amended. Claim 27 has been cancelled. Reconsideration of the subject application in view of the following remarks is respectfully requested.

I. **Patentability of Claims 21-25, 27-30, 32-34, 36, and 38 Under 35 U.S.C. §102(e) and 35 U.S.C. §103(a)**

Claims 21-25, 27-30, 32-34, 36, and 38 have been rejected unpatentable over U.S. Patent No. 6,553,375 (hereinafter: "Huang"). Applicants have argued that claims 21 and 25 are patentable over Huang, as Huang fails to teach a mobile data acquisition device includes a User Role selection module. The Office Action cites a general teaching in the background of Huang that individuals in different roles can be provided with software appropriate to their role. From this teaching, it is argued that the presence of a User

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Role selection module at the mobile data acquisition device is inherent in the Huang system. In the alternative, it is argued that it would be obvious to modify Huang to provide a User Role selection module.

Addressing first the inherency argument, a limitation is inherently disclosed by a reference only if it is necessarily present and a person of ordinary skill in the art would recognize its presence. Crown Operations Int'l Ltd. v. Solutia Inc., 289 F.3d 1367, 1377, 62 USPQ.2d 1917, 1922-1923 (Fed. Cir. 2002). Inherency may not be established by probabilities or possibilities. 289 F.3d at 1377, 62 USPQ at 1923. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. Id.

It is respectfully submitted that the background text cited by the Examiner is nothing by some vague statements about how an organization may wish to organize the software on its handheld devices. It certainly would not indicate to one of skill in the art

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that such an organization scheme is necessarily present in the Huang system. To the extent that an organization using the Huang system wished to limit the applications available to users by their respective positions with the company, this could be accomplished by individually limiting the permissions for each application at the center server; a User Role selection module at the handheld device would not be necessary to provide this function.

Turning to the Examiner's argument that it would be obvious to modify Huang in this manner, it is respectfully submitted that no rationale for the modification is provided other than a general statement that it would be obvious to modify the handheld device to maintain a User Role selection module "for the purpose of managing handheld devices in an organization." It is respectfully submitted that Huang can already organize the distribution of applications in this manner, albeit in a manner different than the

claimed system, by controlling permissions for individual users at the access control list 607 at the central server that provides the applications. In other words, one skilled in the art, seeking to limit access to certain applications to users within an organization could do within the system taught in Huang, without modifying it to provide the systems recited in claims 21 and 25. Accordingly, it is respectfully submitted that, absent knowledge of the claimed systems and methods, one of skill in the art would not be lead to modify Huang to provide a User Role Selection Module as recited in claims 21 and 25.

It is further submitted that Huang does not teach or suggest installing a first set of software applications to replace a factory default software application. The Office Action states that this teaching can be found in the ability of a user in the Huang system to select an application for deletion from a list of applications available for download. *See*

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Huang, Col. 5, lines 53-57. It is respectfully submitted, however, that factory default applications are provided by the manufacturer, not the central server, and would thus not appear on this list. It is respectfully submitted that the Office Action does not provide a teaching or suggestion of replacing a factory default application with a set of software applications from a remote computer, as recited in each of claims 21, 25, and 34, and that each of claims 21, 25, and 34 define over Huang.

Each of claims 22-24, 26, 28-33 and 35-38 depend, directly or indirectly, from one of claims 21, 25, and 34 and should be allowable for at least the same reasons. It is thus submitted that claims 21-26 and 28-38 are patentable over Huang and the withdrawal of the rejection of these claims is respectfully requested.

II. Patentability of Claims 26, 31, 35, and 37 Under 35 U.S.C. §103(a)

Claims 26, 31, 35, and 37 have been rejected as unpatentable over Huang in view of U.S. Patent No. 7,123,933 to Poor et al. (hereinafter: "Poor"). Each of claims 26, 31, 35, and 37 depend from one of claims 21, 25, and 34, and Poor does not appear to remedy the deficiencies of Huang with respect to these claims, as described previously. It is thus respectfully submitted that claims 26, 31, 35, and 37 should be patentable over the cited art for at least the reasons discussed for their respective base claims, and the withdrawal of the rejection of these claims is respectfully requested.

III. Conclusion

In light of the above amendment and remarks, it is respectfully submitted that the application should be in condition for allowance.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

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